

APPEAL NO. 031480
FILED JULY 29, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 13, 2003. The hearing officer determined that the appellant (claimant) had not sustained a compensable injury on _____, and did not have disability.

The claimant appeals, principally on a sufficiency of the evidence basis, citing medical reports which document objective signs of an injury. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as a shipping ("exception capture system") clerk. It is undisputed that the claimant has had a number of other injuries/medical procedures, both before and after _____, the date of the alleged injury. This includes a low back injury of (first date of injury), for which the claimant was receiving treatment, both before and after _____. The claimant testified that on _____, her left knee gave out (due to a 1999 injury) while she was putting a package on a shelf, causing her to fall backward against another shelf. The claimant went to the emergency room the next day. The claimant saw different doctors for her various injuries. The doctor that was treating the claimant for her (first date of injury), back injury does not reference the _____, claimed injury and the doctor that treated the _____, claimed injury does not reference the prior (first date of injury), injury.

There was conflicting evidence and the factual determinations rest on the credibility of the witnesses. The hearing officer commented that he did not find the claimant credible. The claimant appeals that statement saying there is "no basis" for it. Our review of the record indicates that there is sufficient evidence to support the hearing officer's determinations.

The hearing officer also commented that even if the incident occurred (the hearing officer found that it did not), there would "not be continuing disability from a bruise." The claimant, on appeal, argues that the definition of an injury does not require that the injury be permanent. We agree, however, we note that the definition of disability (Section 401.011(16)) does require that the compensable injury prevents the claimant from obtaining and retaining employment at the preinjury wage. We read the hearing officer's comments to say that he did not believe a fall incident occurred, and even if it did result in a bruise injury, it did not result in disability.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We hold that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge